

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

TESFAYE DUMESSA,

Plaintiff,

Case No. 21-cv-0702-bhl

v.

CONCORDIA UNIVERSITY WISCONSIN CAMPUS,

Defendant.

ORDER

On June 8, 2021, plaintiff Tesfaye Dumessa, proceeding without counsel, filed a complaint and a motion for leave to proceed without prepayment of the filing fee. (ECF Nos. 1, 2.) The Court has authority to allow a litigant to proceed without prepaying the filing fee if the Court determines that the litigant is unable to pay the costs of commencing the action and the action is not frivolous, fails to state a claim, or is brought against an immune defendant. *Cf.* 28 U.S.C. §1915(a)(1), (e)(2).

As for his indigency, Dumessa's motion indicates that he is employed and unmarried. (ECF No. 2 at 1.) He further states that he receives approximately \$1,800 in monthly income for part of the year and has total monthly expenses of approximately \$1,675. (*Id.* at 2-4.) Dumessa also claims he owns a vehicle worth \$2,000. (*Id.* at 3.) Upon review of his request, it appears that Dumessa is sufficiently indigent for a fee waiver.

The Court must also review the complaint for sufficiency. Under Fed. R. Civ. P. 8(a), a complaint must contain a "short and plain statement of the claim showing that the pleader is entitled to relief." Dumessa alleges that defendant Concordia University Wisconsin Campus breached its contract with him as a student in the School of Pharmacy by expelling him from the program without following the proper disciplinary procedures. (ECF No. 1.) Because he pleaded enough facts to "give the defendant fair notice of what the ... claim is and the grounds upon which it rests," Dumessa's complaint is neither frivolous nor malicious and states an

arguable claim. Therefore, Dumessa will be authorized to proceed with his case *in forma pauperis*. Accordingly,

IT IS HEREBY ORDERED that Dumessa's motion for leave to proceed without prepayment of the filing fee, ECF No. 2, is **GRANTED**.

IT IS FURTHER ORDERED that, pursuant to Fed. R. Civ. P. 4(c)(3), the U.S. Marshals Service shall serve a copy of the complaint, waiver of service form and/or the summons, and this order upon defendants. Dumessa is advised that Congress requires the U.S. Marshal's Service to charge for making or attempting such service. 28 U.S.C. §1921(b). The current fee for waiver of service packages is \$8 per item. 28 C.F.R. §0.114(a)(2). Congress has not made any provision for waiver of these service fees.

Dumessa is now required, under Fed. R. Civ. P. 5(a), to send a copy of every paper or document filed with the Court to the opposing party or its attorneys. Dumessa should also retain a personal copy of each document. The Court may disregard any papers or documents which do not indicate that a copy has been sent to defendant or its attorneys. Dumessa is further advised that his failure to make a timely submission, including notifying the Court of any changes in address, may result in the dismissal of this case for failure to prosecute under Civil L. R. 41.

IT IS FURTHER ORDERED that the defendant shall file a responsive pleading to the complaint within the time allowed under the Federal Rules of Civil Procedure.

Dated at Milwaukee, Wisconsin on July 21, 2021.

s/ Brett H. Ludwig

BRETT H. LUDWIG

United States District Judge